

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PHILLIP J. LYONS,

Plaintiff,

v.

JAMES G. COX et al.,

Defendants.

2:14-cv-46-RFB-NJK

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on November 14, 2014. (ECF No. 7). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were encouraged to engage in informal settlement discussions. (ECF No. 7, 20). Plaintiff's limited purpose counsel has filed a joint status report indicating that settlement has not been reached among Plaintiff and Defendant Hoyer and the NDOC Defendants. (ECF No. 21).

For the foregoing reasons, IT IS ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is GRANTED. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

1 2. The movant herein is permitted to maintain this action to conclusion without the
2 necessity of prepayment of any additional fees or costs or the giving of security therefor. This
3 order granting leave to proceed *in forma pauperis* shall not extend to the issuance of
4 subpoenas at government expense.

5 3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall
6 pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding
7 month's deposits to Plaintiff's account (**Phillip J. Lyons, #33833**), in the months that the
8 account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The
9 Clerk of the Court shall **SEND** a copy of this order to the Finance Division of the Clerk's Office.
10 The Clerk of the Court shall also **SEND** a copy of this order to the attention of the Chief of
11 Inmate Services for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV
12 89702.

13 IT IS FURTHER ORDERED as to the NDOC Defendants:

14 1. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy
15 of Plaintiff's complaint (ECF No. 8) on the Office of the Attorney General of the State of
16 Nevada, attention Kat Howe.

17 2. Subject to the findings of the screening order (ECF No. 7), within **twenty-one**
18 **(21) days** of the date of entry of this order, the Attorney General's Office shall file a notice
19 advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts
20 service; (b) the names of the defendants for whom it does not accept service, and (c) the
21 names of the defendants for whom it is filing last-known-address information under seal. As
22 to any of the named defendants for which the Attorney General's Office cannot accept service,
23 the Office shall file, *under seal*, the last known address(es) of those defendant(s) for whom
24 it has such information.

25 3. If service cannot be accepted for any of the named defendant(s), Plaintiff shall
26 file a motion identifying the unserved defendant(s), requesting issuance of a summons, and
27 specifying a full name and address for the defendant(s). For the defendant(s) as to which the
28 Attorney General has not provided last-known-address information, Plaintiff shall provide the

1 full name and address for the defendant(s).

2 4. If the Attorney General accepts service of process for any named defendant(s),
3 such defendant(s) shall file and serve an answer or other response to the complaint within
4 **sixty (60) days** from the date of this order.

5 5. Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has been
6 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document
7 submitted for consideration by the Court. Plaintiff shall include with the original paper
8 submitted for filing a certificate stating the date that a true and correct copy of the document
9 was mailed to the defendants or counsel for the defendants. If counsel has entered a notice
10 of appearance, Plaintiff shall direct service to the individual attorney named in the notice of
11 appearance, at the address stated therein. The Court may disregard any paper received by
12 a district judge or magistrate judge which has not been filed with the Clerk, and any paper
13 received by a district judge, magistrate judge, or the Clerk which fails to include a certificate
14 showing proper service.

15 IT IS FURTHER ORDERED as to Defendant Hoye:

16 1. The Clerk of Court **SHALL ISSUE** summons for Defendant Hoye, **AND DELIVER**
17 **THE SAME**, along with the complaint (ECF No. 8), to the U.S. Marshal for service. The Clerk
18 also **SHALL SEND** to Plaintiff **one (1)** USM-285 form, one copy of the complaint and a copy
19 of this order. Plaintiff shall have **thirty (30) days** within which to furnish to the U.S. Marshal
20 the required USM-285 form(s) with relevant information as to each Defendant on each form.
21 Within **twenty (20) days** after receiving from the U.S. Marshal a copy of the USM-285 forms
22 showing whether service has been accomplished, Plaintiff must file a notice with the Court
23 identifying which Defendants were served and which were not served, if any. If Plaintiff wishes
24 to have service again attempted on an unserved Defendant(s), then a motion must be filed
25 with the Court identifying the unserved Defendant(s) and specifying a more detailed name
26 and/or address for said Defendant(s), or whether some other manner of service should be
27 attempted.

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